

Introduced by Senator Scott

February 21, 2003

An act to amend Sections 7950, 8708, and 8709 of the Family Code, and to amend Sections 15100 and 15763 of the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 984, as introduced, Scott. Dependent children: Welfare Advance Fund payments: adult protective services.

(1) Existing law requires agencies responsible for the placement of foster children, or the placement of foster children for adoption, to take into consideration specified matters in placing those children.

The Indian Child Welfare Act establishes requirements regarding the custody of children covered by that act.

This bill would provide that these provisions shall not be construed to affect the application of the Indian Child Welfare Act.

(2) Existing law authorizes an agency placing a child in foster care, or the State Department of Social Services or licensed adoption agency to which a child has been freed for adoption, to consider specified matters relating to the cultural, ethnic, or racial background of the child, and the capacity of the prospective foster parents or adoptive parents, as appropriate, to meet the needs of the child.

This bill would eliminate those provisions.

(3) Existing law establishes various aid and medical assistance programs, also known as public assistance programs.

Existing law establishes in the State Treasury the Welfare Advance Fund, and provides that moneys in this revolving fund are to be appropriated for the purpose of making payments or advances to

counties and the Employment Development Department with respect to specified programs.

This bill instead would provide that moneys in the fund are appropriated for the purpose of making payments or advances to counties, Indian tribes, the federal Social Security Administration, or other federal, state, or local governmental entities, of the state and federal shares of local assistance programs, and for the payment of refunds. It would also authorize the use of funds from the Welfare Advance Fund for the purpose of making a consolidated payment, comprised of the state and federal shares of local assistance costs, to any payee associated with programs administered by the State Department of Social Services.

Because this bill would permit moneys in this appropriated fund to be used for a new purpose, it would constitute an appropriation.

(4) Existing law requires each county to establish an emergency response adult protective services program, as specified.

This bill would provide that a county is not required to respond to a report pursuant to this program that involves danger to any elder or dependent adult residing in specified facilities for the incarceration of prisoners or facilities operated by the Department of Youth Authority.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7950 of the Family Code is amended to
2 read:

3 7950. (a) With full consideration for the proximity of the
4 natural parents to the placement so as to facilitate visitation and
5 family reunification, when a placement in foster care is being
6 made, the following considerations shall be used:

7 (1) Placement shall, if possible, be made in the home of a
8 relative, unless the placement would not be in the best interest of
9 the child. Diligent efforts shall be made to locate an appropriate
10 relative. Before any child may be placed in long-term foster care,
11 each relative whose name has been submitted to the agency as a
12 possible caretaker, either by himself or herself or by other persons,
13 shall be evaluated as an appropriate placement resource.

14 (2) No agency or entity that receives any state assistance and is
15 involved in foster care placements may do either of the following:



1 (A) ~~Categorically deny~~ *Deny* to any person the opportunity to
2 become a foster parent, ~~solely~~ on the basis of the race, color, or
3 national origin of the ~~foster parent~~ *person* or the child involved.

4 (B) Delay or deny the placement of a child ~~in~~ *into* foster care,
5 ~~or otherwise discriminate in making a placement decision, solely~~
6 on the basis of the race, color, or national origin of the foster parent
7 or the child involved.

8 (b) ~~An agency or entity to which subdivision (a) applies may~~
9 ~~consider the cultural, ethnic, or racial background of the child and~~
10 ~~the capacity of the prospective foster parents to meet the needs of~~
11 ~~a child of this background as one of a number of factors used to~~
12 ~~determine the best interest of a child.~~

13 (c) ~~As used in the section, “placement decision” means the~~
14 ~~decision to place, or to delay or deny the placement, of a child in~~
15 ~~a foster care home.~~

16 (d) ~~Subdivision (a) shall not be construed to affect the~~
17 ~~application of the Indian Child Welfare Act (25 U.S.C. Sec. 1901~~
18 ~~and following).~~

19 (c) Nothing in this section precludes a search for an appropriate
20 relative being conducted simultaneously with a search for a foster
21 family.

22 SEC. 2. Section 8708 of the Family Code is amended to read:
23 8708. (a) Neither the department nor a licensed adoption
24 agency to which a child has been freed for adoption by either
25 relinquishment or termination of parental rights may do any of the
26 following:

27 ~~(a) Categorically deny~~

28 (1) *Deny* to any person the opportunity to become an adoptive
29 parent, ~~solely~~ on the basis of the race, color, or national origin of
30 the ~~adoptive parent~~ *person* or the child involved.

31 ~~(b)~~

32 (2) Delay or deny the placement of a child for adoption, ~~or~~
33 ~~otherwise discriminate in making an adoptive placement decision,~~
34 ~~solely~~ on the basis of the race, color, or national origin of the
35 adoptive parent or the child involved.

36 ~~(c)~~

37 (3) Delay or deny the placement of a child for adoption solely
38 because the prospective, approved adoptive family resides outside
39 the jurisdiction of the department or the licensed adoption agency.
40 For purposes of this ~~subdivision~~ *paragraph*, an approved adoptive

1 family means a family approved pursuant to the California
2 adoptive applicant assessment standards. If the adoptive applicant
3 assessment was conducted in another state according to that state's
4 standards, the California placing agency shall determine whether
5 the standards of the other state substantially meet the standards and
6 criteria established in California adoption regulations.

7 *(b) This section shall not be construed to affect the application*
8 *of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 and*
9 *following).*

10 SEC. 3. Section 8709 of the Family Code is amended to read:

11 8709. (a) The department or licensed adoption agency to
12 which a child has been freed for adoption by either relinquishment
13 or termination of parental rights may consider the ~~cultural, ethnic,~~
14 ~~or racial background of the child and the capacity of the~~
15 ~~prospective adoptive parent to meet the needs of a child of this~~
16 ~~background as one of a number of factors used to determine the~~
17 ~~best interest of a child. The child's religious background may also~~
18 ~~be considered in determining an appropriate placement.~~

19 ~~As used in this section, "placement decision" means the~~
20 ~~decision to place, or to delay or deny the placement of a child, in~~
21 ~~an adoptive home, and includes the decision to seek termination~~
22 ~~of parental rights or otherwise make a child legally available for~~
23 ~~adoptive placement.~~

24 *(b) This section shall not be construed to affect the application*
25 *of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 and*
26 *following).*

27 SEC. 4. Section 15100 of the Welfare and Institutions Code
28 is amended to read:

29 15100. A revolving fund in the State Treasury is hereby
30 created to be known as the Welfare Advance Fund. All moneys in
31 the fund are appropriated for the purpose of making payments or
32 advances to counties ~~or the Employment Development~~
33 ~~Department, Indian tribes, the federal Social Security~~
34 ~~Administration, or other federal, state, or governmental entities,~~
35 of the state and federal shares of local assistance, ~~child support~~
36 ~~incentive, work incentive or medical care programs or the cost of~~
37 ~~administration of these programs, to other states of the federal~~
38 ~~shares of child support incentives, programs, and for the payment~~
39 of refunds. *In addition, the fund may be used for the purpose of*
40 *making a consolidated payment, comprised of the state and federal*

1 *shares of local assistance costs, to any payee associated with*
 2 *programs administered by the State Department of Social*
 3 *Services.*

4 Payments or advances of funds to counties ~~or the Employment~~
 5 ~~Development Department~~, *Indian tribes, the federal Social*
 6 *Security Administration, or other federal, state, or governmental*
 7 *entities, or to any payee, which payments or advances are properly*
 8 *chargeable to appropriations made from other funds in the State*
 9 *Treasury, may be made by Controller's warrant drawn against the*
 10 *Welfare Advance Fund. For every warrant so issued, the several*
 11 *purposes and amounts for which it was drawn shall be identified*
 12 *for the payee.*

13 The amounts to be transferred to the Welfare Advance Fund at
 14 any time shall be determined by the department, and, upon order
 15 of the Controller, shall be transferred from the funds and
 16 appropriations otherwise properly chargeable therewith to the
 17 Welfare Advance Fund.

18 Refunds of amounts disbursed from the Welfare Advance Fund
 19 shall, on order of the Controller, be deposited in the Welfare
 20 Advance Fund, and, on order of the Controller, shall be transferred
 21 therefrom to the funds and appropriations from which ~~such the~~
 22 *amounts were originally derived. Claims for amounts erroneously*
 23 *paid into the Welfare Advance Fund shall be submitted by the*
 24 *department to the State Controller who, if he or she approves such*
 25 *the claims, shall draw his or her warrant in payment thereof against*
 26 *the Welfare Advance Fund.*

27 All amounts increasing the cash balance in the Welfare Advance
 28 Fund, which were derived from the cancellation of warrants issued
 29 therefrom, shall, on order of the Controller, be transferred to and
 30 in augmentation of the appropriations from which the amounts
 31 were originally derived.

32 SEC. 5. Section 15763 of the Welfare and Institutions Code
 33 is amended to read:

34 15763. (a) Each county shall establish an emergency
 35 response adult protective services program that shall provide
 36 in-person response, 24 hours per day, seven days per week, to
 37 reports of abuse of an elder or a dependent adult, for the purpose
 38 of providing immediate intake or intervention, or both, to new
 39 reports involving immediate life threats and to crises in existing

1 cases. The program shall include policies and procedures to
2 accomplish all of the following:

3 (1) Provision of case management services that include
4 investigation of the protection issues, assessment of the person's
5 concerns, needs, strengths, problems, and limitations, stabilization
6 and linking with community services, and development of a
7 service plan to alleviate identified problems utilizing counseling,
8 monitoring, followup, and reassessment.

9 (2) Provisions for emergency shelter or in-home protection to
10 guarantee a safe place for the elder or dependent adult to stay until
11 the dangers at home can be resolved.

12 (3) Establishment of multidisciplinary teams to develop
13 interagency treatment strategies, to ensure maximum coordination
14 with existing community resources, to ensure maximum access on
15 behalf of elders and dependent adults, and to avoid duplication of
16 efforts.

17 (b) (1) A county shall respond immediately to any report of
18 imminent danger to an elder or dependent adult residing in other
19 than a long-term care facility, as defined in Section 9701 of the
20 ~~Welfare and Institutions Code~~, or a residential facility, as defined
21 in Section 1502 of the Health and Safety Code. For reports
22 involving persons residing in a long-term care facility or a
23 residential care facility, the county shall report to the local
24 long-term care ombudsman program. Adult protective services
25 staff shall consult, coordinate, and support efforts of the
26 ombudsman program to protect vulnerable residents. Except as
27 specified in paragraph (2), the county shall respond to all other
28 reports of danger to an elder or dependent adult in other than a
29 long-term care facility or residential care facility within 10
30 calendar days or as soon as practicably possible.

31 (2) An immediate or 10-day in-person response is not required
32 when the county, based upon an evaluation of risk, determines and
33 documents that the elder or dependent adult is not in imminent
34 danger and that an immediate or 10-day in-person response is not
35 necessary to protect the health or safety of the elder or dependent
36 adult.

37 (3) The State Department of Social Services, in consultation
38 with the County Welfare Directors Association, shall develop
39 requirements for implementation of paragraph (2), including, but



1 not limited to, guidelines for determining appropriate application
2 of this section and any applicable documentation requirements.

3 (4) Notwithstanding Chapter 3.5 (commencing with Section
4 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
5 the department shall implement the requirements developed
6 pursuant to paragraph (3) by means of all-county letters or similar
7 instructions prior to adopting regulations for that purpose.
8 Thereafter, the department shall adopt regulations in accordance
9 with the requirements of Chapter 3.5 (commencing with Section
10 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

11 (c) *A county is not required to respond to a report pursuant to*
12 *subdivision (b) that involves danger to any elder or dependent*
13 *adult residing either in any facility for the incarceration of*
14 *prisoners that is operated by, or under contract with, the Federal*
15 *Bureau of Prisons, the Department of Corrections, any county*
16 *sheriff's department, any city police department, or any other law*
17 *enforcement agency, or in any facility operated by the Department*
18 *of the Youth Authority, when the abuse reportedly has occurred in*
19 *that facility.*

20 (d) A county shall provide case management services to elders
21 and dependent adults who are determined to be in need of adult
22 protective services for the purpose of bringing about changes in the
23 lives of victims and to provide a safety net to enable victims to
24 protect themselves in the future. Case management services shall
25 include the following, to the extent services are appropriate for the
26 individual:

27 (1) Investigation of the protection issues, including, but not
28 limited to, social, medical, environmental, physical, emotional,
29 and developmental.

30 (2) Assessment of the ~~person's~~ concerns and needs *of the*
31 *person* on whom the report has been made and the concerns and
32 needs of other members of the family and household.

33 (3) Analysis of problems and strengths.

34 (4) Establishment of a service plan for each person on whom
35 the report has been made to alleviate the identified problems.

36 (5) Client input and acceptance of proposed service plans.

37 (6) Counseling for clients and significant others to alleviate the
38 identified problems and to implement the service plan.

39 (7) Stabilizing and linking with community services.

40 (8) Monitoring and followup.

1 (9) Reassessments, as appropriate.

2 ~~(d)~~

3 (e) To the extent resources are available, each county shall
4 provide emergency shelter in the form of a safe haven or in-home
5 protection for victims. Shelter and care appropriate to the needs of
6 the victim shall be provided for frail and disabled victims who are
7 in need of assistance with activities of daily living.

8 ~~(e)~~

9 (f) Each county shall designate an adult protective services
10 agency to establish and maintain multidisciplinary teams
11 including, but not limited to, adult protective services, law
12 enforcement, home health care agencies, hospitals, adult
13 protective services staff, the public guardian, private community
14 service agencies, public health agencies, and mental health
15 agencies for the purpose of providing interagency treatment
16 strategies.

17 ~~(f)~~

18 (g) Each county shall provide tangible support services, to the
19 extent resources are available, which may include, but not be
20 limited to, emergency food, clothing, repair or replacement of
21 essential appliances, plumbing and electrical repair, blankets,
22 linens, and other household goods, advocacy with utility
23 companies, and emergency response units.

